

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS**

**October 19, 2009 – 7:00 PM**

**J. NEWTON COHEN, SR. ROOM**

**J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**  
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Present: Carl Ford, Chairman  
Jon Barber, Vice-Chairman  
Raymond Coltrain, Member  
Tina Hall, Member  
Chad Mitchell, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Ford convened the meeting at 7:00 pm.

Chairman Ford provided the Invocation and also led the Pledge of Allegiance.

**CONSIDER APPROVAL OF MINUTES**

Commissioner Barber moved, Commissioner Mitchell seconded and the vote to approve the minutes of the October 5, 2009 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Chairman Ford moved to add a discussion regarding an economic development project and potential jobs in Rowan County. The motion was seconded by Commissioner Mitchell and passed unanimously.

Chairman Ford added the issue as agenda item #9a.

**CONSIDER DELETIONS FROM THE AGENDA**

Chairman Ford moved to table agenda items #10 and #11 to the next meeting until additional information could be received. The motion was seconded by Commissioner Hall and carried 4-1 with Commissioner Barber dissenting.

## **CONSIDER APPROVAL OF THE AGENDA**

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

### **1. CONSIDER APPROVAL OF THE CONSENT AGENDA**

Commissioner Mitchell moved approval of the Consent Agenda. The motion was seconded by Commissioner Barber and passed unanimously.

The Consent Agenda consisted of the following:

- A. Approval to Transfer Surplus 2002 Dodge Van from RTS to Emergency Services
- B. Set Quasi-Judicial Hearing for November 2, 2009 for PCUR 02-09: Request from Randy L. Beach
- C. Set Public Hearing for November 2, 2009 to Consider Text Amendments to Subdivision and Zoning Ordinance
- D. Approval of Resolution for Purchase of Microsoft Enterprise Agreement Software

#### RESOLUTION AWARDING CONTRACT FOR THE PURCHASE OF MICROSOFT EA SOFTWARE FOR THE ROWAN COUNTY INFORMATION SYSTEMS DEPARTMENT

WHEREAS, after due advertisement for request for bids for Microsoft Enterprise Agreement (EA) Software for the Rowan County Information Systems Department, it is the recommendation of the Information Systems Department and the Finance Department that a three-year contract be awarded to SHI at a cost not to exceed \$638,035.33; and

WHEREAS, the Board of Commissioners is convened in a regularly scheduled meeting;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Rowan County to award a three-year contract to SHI for Microsoft EA Software at a cost not to exceed \$638,035.33.

- Before moving to the next agenda item, Chairman Ford turned the floor over to Commissioner Barber for several comments.

Commissioner Barber mentioned the Education Summit recently sponsored by Rowan Partners for Education. Commissioner Barber said the guest speaker, Mike Minter, stressed the importance of education and what it meant to the community. Commissioner Barber expressed hope that the County would reach a point in the future where education would be funded at a level to where it would not be necessary to incarcerate children.

Commissioner Barber referred to a recent article in the Salisbury Post regarding a group of teens who had been involved in an at-risk program

with community mentors. Commissioner Barber said the Times Two Mentoring Program provided meaningful and innovative activities for the youth involved. Commissioner Barber said if everyone would get involved, it would make a difference in the lives of the children.

- Due to the large crowd in attendance, Chairman Ford asked County Manager Gary Page to provide an update on the proposed jail annex.

Mr. Page reported that the Jail Annex Committee (Committee) had met twice and during one of the meetings had discussed three (3) potential sites for the proposed jail annex. Mr. Page said if one of the three (3) sites was selected, the County would not have to purchase land, as all three (3) tracts were already owned by the County. Mr. Page said the sites had been ranked in order based on several criteria, including water/sewer availability. Mr. Page said the Committee was in the process of performing its due diligence for a site and that no decision or recommendation had been made. Mr. Page reported that a fourth site had been proposed from an individual and that a land trade between the County and the individual might be possible. Mr. Page assured the public that the best decision would be made.

Commissioner Mitchell clarified that the sites had been ranked on whether the property was 1) County-owned, 2) closeness to water/sewer, and 3) proper zoning. Commissioner Mitchell said no other factors were considered at the time and based on the above criteria, Heilig Road had been ranked as the number one site. Commissioner Mitchell said when other variables are taken into consideration, the rankings could change.

Commissioner Coltrain reiterated that the Committee had not made a site recommendation. Commissioner Coltrain said the architect had reviewed the sites and had recommended Heilig Road as the best location for the jail annex.

Commissioner Barber said in March of 2008 the State had directed the County to move forward with a plan to address the overcrowding situation at the Rowan County Detention Center. Commissioner Barber asked when a recommendation might be made to the Board and Mr. Page said in the next 60 to 90 days. Mr. Page said development costs could not be determined until a site was selected and if the County had to purchase land, the purchase price would be in addition to the estimated \$6 million for the jail annex.

## **2. PUBLIC COMMENT PERIOD**

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Jim Sides discussed the ¼-cent sales tax and said in theory it was a fair tax due to the fact that everyone paid when making purchases in Rowan County. Mr. Sides felt the tax penalized the poor and those who were on fixed incomes. Mr. Sides said he had talked with at least 50 people who had not realized they could vote on the ¼-cent sales tax referendum during the current municipal election. Mr. Sides questioned why the tax had not been heavily promoted as a county-wide issue. Mr. Sides asked if the proposed capital projects that would be funded by the tax could be paid from reserve funds through other means for the first year or two. Mr. Sides said there was no guarantee the Board would not raise property taxes next year and historically, once a tax was approved, the tax historically remained permanent.
- Jim Gandy spoke in opposition to the proposed Heilig Road site as a potential location for a new jail annex. Mr. Gandy described the area as a senior-friendly neighborhood and he expressed concern with the potential for increased traffic if the jail were to be built in the Heilig Road area. Mr. Gandy felt there were better sites available in which to build the jail.
- Dave Lannon described a recent Salisbury Post press release as “careless” in its reporting of the Heilig Road area as the site selected for a new jail annex. Mr. Lannon said the criteria that had been discussed by the County Manager prior to the Public Comment Period had not been mentioned in the article. Mr. Lannon asked the Board to keep in mind the number of schools in the area, in addition to residential and industrial properties.
- Jim Gandy returned to the podium and said he failed to inform the Board that he had provided the Clerk with a petition prior to the meeting. Mr. Gandy said the petition contained over 130 names of those in opposition to Heilig Road as a potential jail site.
- Brian Humphreys said the recent article in the Salisbury Post had given the impression that Heilig Road was the approved site for a new jail. Mr. Humphreys said he had been to approximately 120 homes in the area and had encountered no one in favor of the jail being constructed on Heilig Road. Mr. Humphreys provided the Clerk with a petition containing signatures from citizens in opposition to the jail being constructed on Heilig Road.

With no one else wishing to address the Board, Chairman Ford closed the Public Comment Period.

### **3. PUBLIC HEARING FOR MAJORITY PETITION FOR LITAKER FARM ROAD**

Planning Technician Fredda Greer reported that when the permit process began for a new residence on Tax Parcel 766 041, Staff noted the drive off Litaker Road should be named. Ms. Greer said a completed petition was returned with 3 out

of 5 property owners' signatures in support of the name Litaker Farm Road. Staff recommended approval of the road name.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed road name of Litaker Farm Road.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved approval of Litaker Farm Road. The motion was seconded by Commissioner Barber.

Chairman Ford said that 911 Staff had previously advised against having roads with the same name within a 20-mile radius. Chairman Ford pointed out that Litaker Road and Litaker Farm Road would be intersecting.

Ms. Greer said 911 Staff considered the road name to be different since it included the word "Farm".

Upon being put to a vote, the motion on the floor carried unanimously.

#### **4. PUBLIC HEARING FOR UNANIMOUS PETITION FOR JENNY LANE**

Planning Technician Fredda Greer said Staff had notified property owners of the intent to name the road located north off the 2600 block of Old Union Church Road. A completed petition was received with both property owners' signatures. Ms. Greer said Staff had recommended approval of the proposed road name of Jenny Lane; however, at the end of last week a 911 Staff member noticed a similar road name (Penny Lane) in the same fire district. Ms. Greer said 911 Staff now recommended using the name of Jenny Drive as opposed to Jenny Lane. Ms. Greer said she had contacted the property owners and the name Jenny Drive was acceptable to them.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed road name of Jenny Drive.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Coltrain seconded and the vote to approve the road name of Jenny Drive passed unanimously.

#### **5. PUBLIC HEARING FOR UNANIMOUS PETITION FOR COBRA LANE**

Planning Technician Fredda Greer said Staff had notified the property owner of the intent to name the road located north off the 9800 block of Mooresville Road. A completed petition was received and Staff recommended approval of the proposed road name of Cobra Lane.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed road name of Cobra Lane.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the road name of Cobra Lane passed unanimously.

## **6. DISCUSSION REGARDING EMINENT DOMAIN RESOLUTION & CONSIDER SCHEDULING COURTESY HEARING**

Planning & Development Director Ed Muire recalled that Staff had been directed at a prior Commission Meeting to develop a resolution, which proposed that the Board of Commissioners would not use the power of eminent domain granted by North Carolina General Statutes to support or fund acquisition of property for development of greenways or public trails.

Mr. Muire said the proposed resolution in the agenda packet had been unanimously recommended by the Planning Board.

Commissioner Hall said the Resolution before the Board had been prompted by interest in the Carolina Thread Trail (Trail). In response to a query from Commissioner Hall, Mr. Muire yielded to Commissioner Coltrain to provide the background information for the Trail.

Commissioner Coltrain said the Carolina Threadtrail was a group of volunteers that formed to work with communities to create a venue in those communities for citizens to ride bikes, walk, etc. Commissioner Coltrain said private funds were used in the development of plans for trails. Commissioner Coltrain said the name for the group had been selected out of respect for those who had worked in the textile industry in North and South Carolina. Commissioner Coltrain said the group had no desire to force a plan on a community. Commissioner Coltrain said he did not see how anyone could declare eminent domain for a walking trail since a walking trail was not a necessity for public good.

Commissioner Hall said she had recently met with a representative of the Carolina Threadtrail and she had been quite surprised to learn the group did not have any intention to force a trail on any community. Commissioner Hall said supported the request before the Board.

Commissioner Coltrain said it was clearly stated during a presentation to the Commissioners that the Carolina Threadtrail had no intention of forcing a trail on a community.

Chairman Ford said the presentation had been made; however, he recalled that Carolina Threadtrail already had a map with a trail in Rowan County and also

had a DVD released in 2007 that showed Rowan County as a participant. Chairman Ford said a search of previous minutes revealed the Board had not taken action on the Trail.

Commissioner Hall agreed with Chairman Ford that the presentation “came across” as being pre-determined.

Commissioner Barber agreed that the Board should approve the Resolution after the public hearing was held in November. Commissioner Barber further suggested working with legislators to have antiquated statutes changed in North Carolina.

Commissioner Mitchell moved to set a public hearing and he asked that the last paragraph of the Resolution be read for the public’s benefit.

Chairman Ford read the last paragraph of the Resolution.

The motion was seconded by Commissioner Barber and the Board agreed that the public hearing should be held during the second meeting in the month of November.

Upon being put to a vote, the motion on the floor passed unanimously.

The Resolution was presented as follows:

**Resolution Protecting Rowan County**  
Landowners from Forced Access Across their Property  
for Development of Public Trails by means of Eminent Domain

WHEREAS, North Carolina General Statutes (NCGS) Chapter 40A Article 1-5 provides condemnation procedures for all private condemnors, local public condemnors and other public condemnors exercising eminent domain; and

WHEREAS, “Eminent Domain” as defined in NCGS 40A-2(3) means the power to divest right, title, or interest from the owner of property and vest it in the possessor of the power against the will of the owner upon the payment of just compensation for the right, title, or interest divested; and

WHEREAS, “Property” as defined by NCGS 40A-2(7) means any right, title, or interest in land, including leases and options to buy or sell and also includes rights of access, rights-of-way, easements, water rights, air rights, and any other privilege or appurtenance in or to the possession, use and enjoyment of land; and

WHEREAS, a recommendation contained in Section 4.6 of the Rowan County Land Use Plan for the Areas West of I-85 adopted by the Rowan County Board of Commissioners on April 20, 2009 states, *“No public trails should be proposed across private lands, or farmlands, unless the property owner voluntarily consents to them.”*; and

WHEREAS, the Rowan County Board of Commissioners proposes to endorse a policy of protection for Rowan County landowners from forced access across their property for development of public trails by means of eminent domain.

NOW THEREFORE BE IT RESOLVED, that the Rowan County Board of Commissioners will not utilize authority vested by NCGS Chapter 40A Articles 1-5 to endorse, pursue, support (financially or otherwise), the acquisition of property through eminent domain for development of greenways or public trails by any local agency or jurisdiction; state or national agency; and private or other public condemnors.

## **7. UPDATE REGARDING ROWAN/KANNAPOLIS ABC OPERATIONS**

Commissioner Hall provided the Board with an update regarding changes to policies and operations of the Rowan/Kannapolis ABC System (ABC).

Commissioner Hall said she felt the ABC system would become a more efficient operation under the leadership of the new ABC Board Chair Linda Lowman.

Commissioner Hall said distributions had recently increased to \$281,000 versus \$25,000 in the previous year.

Commissioner Hall highlighted areas under review by the ABC Board, which were to cut travel expenses, cut store and warehouse inventory, possible sale of the former Spencer store and possible elimination of the in-house law enforcement position. Commissioner Hall said the ABC Board would continue to work towards decreasing expenses and increasing distributions.

Commissioner Hall distributed several handouts that had been provided during the September ABC Board Meeting. The handouts included the ABC System's travel policy and an invitation for a swearing-in ceremony in Raleigh.

Commissioner Hall said due to changes for a more strict travel policy, the ABC General Manager was not allowed to attend the swearing-in ceremony.

Commissioner Hall also provided a copy of the management letter for the 2009 audit and she highlighted the recommendations in the letter.

Commissioner Hall concluded by saying she was encouraged by the changes within the ABC System.

## **8. UPDATE REGARDING ONE-QUARTER CENT COUNTY SALES TAX**

County Manager Gary Page said the Board previously discussed the need for a new jail annex and the need to replace radios and antennae for emergency communications. Mr. Page said the Board had voted to put a referendum for a one-quarter cent sales tax (sales tax) on the ballot to offer citizens a choice in how to pay for the projects.

Mr. Page said presentations had been made to approximately thirty (30) civic groups regarding the sales tax. Mr. Page discussed creating awareness and educating the public on the referendum through television, radio shows and the Salisbury Post.

Commissioner Barber pointed out that information on the sales tax was available on the County's website, as well as Access 16.



Commissioner Barber said he had been asked about the 911 surcharge and why the funds were not being used to fund the telecommunications needs. Commissioner Barber asked Mr. Page to respond.

Mr. Page highlighted the projects the sales tax would fund and he also addressed the question pertaining to the 911 surcharge. Mr. Page explained that 911 surcharge could only be used for 911 equipment and software.

Commissioner Barber said the Board unanimously passed a resolution on August 3, 2009, which specifically stated the sales tax would pay for a jail annex and upgrades to the telecommunications system. Commissioner Barber said the resolution did not specify using the funds for any other capital projects. Commissioner Barber added that he was in favor of a sunset clause for the sales tax and he said if the debts were paid off in less than ten (10) years, the Board could ask the State to stop collecting the sales tax.

Commissioner Hall asked the County Manager to clarify what an “advisory referendum” meant. Mr. Page explained that the Board was asking for the citizens’ opinion with the referendum, and if the referendum passed, it would not be binding. Mr. Page said the Board would still be able to choose whether or not to levy the sales tax.

Commissioner Hall asked if there was a possibility the sales tax could be used for other capital projects, such as a school central office. Mr. Page said the entire time the County had discussed the tax with the public, it had been based specifically for the two (2) public safety issues. Mr. Page said if the referendum passed, the Board would have the option to increase the projects, as long as the debt payment remained at \$2 million. Commissioner Barber added that any future board could also change the terms.

Commissioner Barber asked how the County was going to address not supplying the radios for municipal police departments even though municipal fire departments would benefit.

Chairman Ford noted that, in essence, all departments would benefit from the additional radio towers.

Mr. Page said the County had not finished the needs assessment and once bids were received it might be possible to include the police departments.

Commissioner Hall said although the Board had the right by law to change its mind on the capital projects, there had been specific talking points distributed and discussed with the public. Commissioner Hall said she stood by the proposed projects and she expressed hope the other Board members would do the same.

Commissioner Mitchell said the County did not want to spend \$18 million for the projects; however, he pointed out that the emergency radios would be cut off on a specific date in the future unless the County made changes. Commissioner Mitchell said the money had to come from somewhere, whether it was from sales tax or from property tax. Commissioner Mitchell said he did not see voting to increase the general property tax rate to cover the expenses. Commissioner Mitchell said the volunteer fire departments would have to seek an increase in their fire district tax to cover the expenses.

Commissioner Mitchell addressed comments pertaining to a downtown jail facility and he pointed out that a downtown facility would cost \$30 to \$40 million compared to a jail annex at a cost of approximately \$6 million. Commissioner Mitchell also discussed the costs of housing inmates in another county.

Commissioner Mitchell said the bottom line was the two (2) projects had to be paid for with either property tax or sales tax dollars. Commissioner Mitchell said he preferred for everyone who buys, sells and shops in Rowan County to foot the bill rather than just the property owners. Commissioner Mitchell said if there was additional revenue above and beyond what it would cost to provide the programs, he supported cutting the property tax rate by the additional revenue amount. Commissioner Mitchell said he was not going to put his name on something and then go back on it. Commissioner Mitchell said he believed the Board needed to be upfront and honest, and once the projects were paid for, propose a new referendum for the tax to be taken back off. Commissioner Mitchell said citizens must understand the expenses had to be paid for and the question was how.

Commissioner Coltrain said another hidden cost was \$650,000 the County spent each year to house inmates in Sampson County. Commissioner Coltrain pointed out that the estimated operation costs for a new jail annex would be less than what was being paid to house inmates in Sampson County.

Chairman Ford said he was at the Board's 2008 Retreat when the two (2) safety projects were discussed. Chairman Ford said a downtown jail would be cost prohibitive. Chairman Ford said he knew the projects had to be paid for one way or another and it was most important for the citizens to have the right to say how the projects were to be paid for.

#### **9. CONSIDER RECOMMENDATION FROM AIRPORT ADVISORY BOARD REGARDING THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT GRANT APPLICATION**

County Manager Gary Page recalled that the Board had recently received a presentation regarding the Small Community Air Service Development Grant. Mr. Page said the Board had referred the grant application to the Airport Advisory Board for its review and a recommendation.

Mr. Page said the Airport Advisory Board had reviewed an audit that indicated 70% of the participants did not reach their goals. The Airport Advisory Board therefore recommended the County not participate, as it felt the County would not see a return on the proposed investment of \$10,000.

Commissioner Mitchell said he had read the audit and saw there would not be a return on the investment for the County in the near future. Commissioner Mitchell said there was no need to spend government money “just because it’s there”.

#### **ADDITION**

#### **CONSIDER REQUEST FOR ECONOMIC DEVELOPMENT PROJECT**

Economic Development Director Robert Van Geons asked the Board to set a public hearing for November 2, 2009 to consider “Project M&M”. Mr. Van Geons said the project would represent approximately \$7.8 million of new investment in the County. Mr. Van Geons said the company currently employed over 225 workers in the community and the proposed investment would create 162 new jobs with wages of approximately \$40,000 per year.

Commissioner Coltrain moved to set a public hearing for November 2, 2009. The motion was seconded by Commissioner Barber.

The board members took turns praising Mr. Van Geons for his efforts to not only bring new jobs to Rowan County but for his efforts to retain and expand existing businesses.

Upon being put to a vote, the motion on the floor passed unanimously.

#### **10. DISCUSSION REGARDING COUNTY’S PLANS TO DISPOSE OF SURPLUS PROPERTY**

This item was removed from the agenda at the beginning of the meeting.

#### **11. UPDATE REGARDING RESULTS AND MEMBERS OF EFFICIENCY COMMITTEE**

This item was removed from the agenda at the beginning of the meeting.

#### **12. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

Finance Director Leslie Heidrick presented the following budget amendments for the Board’s consideration:

- Finance – Adjust the Criminal Justice Partnership Program grant budget to the amount appropriated by the State - \$1,866
- Emergency Services – Budget restricted funds through United Way donation by citizen to EMS equipment and services - \$75

- Health - Increase revenues and expenditures – new federal funding from NC Immunization Branch to improve immunization service delivery (must be spent or encumbered by December 31, 2009) - \$7,000
- Finance – Budget the One NC Fund Grant for Sustainable Textile Group, LLC - \$300,000
- Finance – Increase the ROAP budget to agree with State budget - \$18,611

Commissioner Mitchell moved, Commissioner Coltrain seconded and the vote to approve the budget amendments as presented passed unanimously.

**13. COUNTY MANAGER'S MONTHLY ACTIVITY REPORT TO THE BOARD**

Commissioner Mitchell moved to accept the County Manager's monthly activity report to the Board. The motion was seconded by Commissioner Barber and passed unanimously.

**14. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 8:30 pm. The motion was seconded by Commissioner Coltrain and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC  
Clerk to the Board